IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5405 OF 2005

The State of Maharashtra .. Applicant.
Vs.
Rameez Jalal Sayyed .. Respondents.

Mr.U.V.Nikam A.P.P. for the State.

CORAM : D.B.BHOSALE, J.

DATED : 16TH JUNE, 2006

P.C.:

. Heard learned A.P.P. for the State.

2. This is an application under section 378(4) of the Code of Criminal Procedure seeking leave to appeal against the order of acquittal. The respondent-accused was charged and tried for the offence under section 379 of the Indian Penal Code on the allegation that he had stolen motor cycle and was found in possession thereof on 12.5.2004 between 3.00 a.m. to 9.00 a.m. The prosecution has examined Sarjerao Tengale (P.W.1), who chased the accused, and Dattatraya Adep (P.W.3) panch witness. The panch witness does not support the prosecution. Insofar as signature on the panchnama is concerned, he states that signature on the panchnama was obtained in the evening while the panchnama was drawn in the morning. Moreover, the owner of the vehicle has not offered any

explanation as to why did he not lodged the complaint on the very day and waited till 13.5.2004. On appreciation of the evidence the learned trial Court had observed that the prosecution failed to prove the guilt of the accused beyond reasonable doubt. Considering the reasons recorded by the trial Court on appreciation of the evidence on record, the impugned judgment cannot be said to be unreasonable and perverse. The view taken by the trial Court is reasonably possible view. No manifest illegality is seen while acquitting the accused of the offence under section 379 of I.P.C. In the circumstances I find no reason to grant leave to appeal. The application is, accordingly, rejected.

(D.B.Bhosale, J.)